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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,988	11/03/2003	Alfred Fuglister		5297
7590	09/21/2005		EXAMINER	
Francis C. Hand, Esq. c/o Carella, Byme, Bain, Gilfillan, Cecchi, Stewart & Olstein 5 Becker Farm Road Roseland, NJ 07068			COOLEY, CHARLES E	
			ART UNIT	PAPER NUMBER
			1723	
DATE MAILED: 09/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/699,988	FUGLISTER, ALFRED	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles E. Cooley	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-6 and 11-13 is/are allowed.
- 6) Claim(s) 7 and 8 is/are rejected.
- 7) Claim(s) 9 and 10 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date: ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: ____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____                                     |

## **NON-FINAL OFFICE ACTION**

1. This application has been assigned to Technology Center 1700, Art Unit 1723

and the following will apply for this application:

Please direct all written correspondence with the correct application serial number for this application to Art Unit 1723.

Telephone inquiries regarding this application should be directed to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 or to the Examiner at (571) 272-1139. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

### ***Priority***

2. Acknowledgment is made of applicant's claim for priority based on an application filed in EP on 13 DEC 2002. It is noted, however, that applicant has not filed a certified copy of the application as required by 35 U.S.C. § 119.

### ***Drawings***

3. The drawings are objected to because of the following informalities:

a. Figures 1, 2, and 3 should each be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Correction is required.

4. Applicant should verify that (1) all reference characters in the drawings are described in the detailed description portion of the specification and (2) all reference characters mentioned in the specification are included in the appropriate drawing Figure(s) as required by 37 CFR 1.84(p)(5).

### **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

#### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

#### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

#### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

### ***Specification***

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
6. The disclosure is objected to because of the following informalities:
  - a. Page 3, lines 1 and 4 contain spelling errors.
  - b. The specification should have the following headings inserted therein at the appropriate locations in accordance with 37 CFR 1.77:

### **Arrangement of the Specification**

The following order or arrangement is preferred in framing the specification and, except for the title of the invention, each of the lettered items should be preceded by the headings indicated below.

- (a) Title of the Invention.
- (b) Cross-References to Related Applications (if any).
- (c) Statement as to rights to inventions made under Federally-sponsored research and development (if any).
- (d) Background of the invention.
  1. Field of the Invention.
  2. Description of the Related Art including information disclosed under 37 C.F.R. §§ 1.97-1.99.
- (e) Summary of the Invention.
- (f) Brief Description of the Drawing.
- (g) Description of the Preferred Embodiment(s).
- (h) Claim(s).
- (l) Abstract of the Disclosure.

Appropriate correction is required.

7. The use of the apparent trademark INCONEL have been noted in this application on page 7. Trademarks should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

8. The Abstract of the Disclosure is objected to because:

- a. the inclusion of legal phraseology such as "means" in the abstract is improper.
9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (MPEP 606.01).

#### ***Claim Objections***

10. Claim 11, last line is objected to because of a spelling error.

Correction is required.

#### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

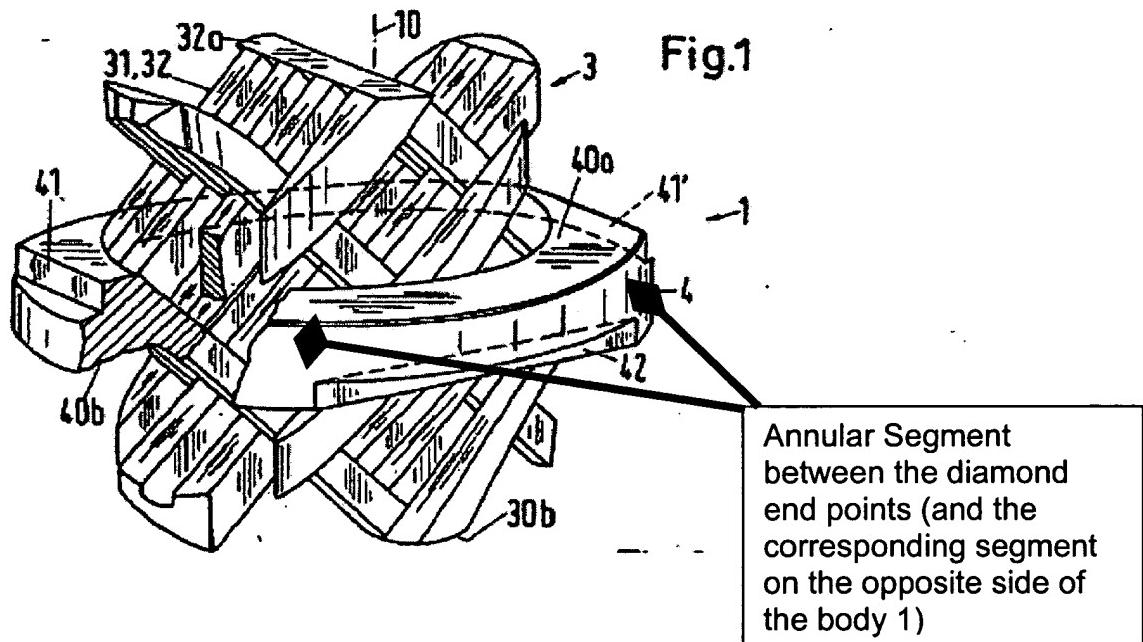
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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by EP 1099469.

EP 1099469 in Fig. 1 discloses a static mixer body 1 with the recited sets of parallel ribs 3, 31, 32 that are in a crossing relation and a pair of annular segments (the projecting annular regions just above the cut-out portions 42 on opposite sides of the body 1 and denoted by the region between the diamond ends of the arrows seen below).

EP 1 099 469 A1



13. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Ogasawara et al. (US 6,109,781).

Ogasawara et al. (US 6,109,781) discloses a static mixer body (e.g., two or more of adjacent elements 3) with the recited sets of parallel ribs 9 that are in a crossing relation (Fig. 1) and a pair of annular segments 11.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1099469 or Ogasawara et al. (US 6,109,781) in view of Stowell et al. (US 2002/0127112 A1).

EP 1099469 or Ogasawara et al. do not disclose the recited material of the body. Stowell et al. discloses an article made from IN-718. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have formed the bodies of EP 1099469 or Ogasawara et al. from IN-718 as disclosed by Stowell et al. for the purpose of imparting resistance to high temperatures and corrosive environments to the bodies (para. [0019]).

Furthermore , it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416; *Sinclair & Carroll Co., Inc. v. Interchemical Corp.*, 65 USPQ 297 (1945).

### ***Allowable Subject Matter***

16. Claims 9-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
17. Claims 1-6 and 11-13 are allowable over the prior art of record.
18. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach or fairly suggest the recited cooperation and orientation between the annular segments and sleeves of the static mixer bodies or the recited shape of the ribs (claim 7) and wedge-shaped cross-section of the annular segments (claim 8).

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art discloses static mixer bodies.

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20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles E. Cooley  
Primary Examiner  
Art Unit 1723

15 September 2005